



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2026

Introduced 2/7/2008, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

See Index

Amends the Cigarette Tax Act. Requires tax stamps on cigarettes to indicate whether tax on those cigarettes was paid. Sets forth requirements for the handling of unstamped cigarettes. Sets forth fines and penalties under the Act. Limits the number of cartons of cigarettes that a retailer may sell in a single transaction. Sets forth requirements concerning applications for licensure under the Act. Sets forth requirements on distributors with respect to the Department of Revenue. Requires sub-certificates of registration for retailers and sets forth requirements and procedures for granting, revoking, cancelling, or suspending a sub-certificate. Requires the Department to maintain a list of all suspended, cancelled, and revoked licenses, permits, or sub-certificates under the Act. Requires the Department to assign unique stamp and meter impression numbers to distributors and out-of-state manufacturers. Requires retailers to maintain certain records. Sets forth procedures for the forfeiture and destruction of contraband cigarettes. Repeals Sections concerning transporters and the cessation of business by distributors. Amends the Prevention of Cigarette Sales to Minors Act. Sets forth various requirements with respect to shipping, registration, and reporting to prevent delivery sales to minors. Requires certain standards for delivery sales. Requires the Department to establish a tip line for reporting violations of the Act. Makes other changes. Effective immediately.

LRB095 18691 BDD 44792 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning Illinois cigarette sales.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Cigarette Tax Act is amended by changing
5 Sections 1, 3, 3-10, 4, 11, 20, and 21 and by adding Sections
6 3-15, 3-20, 4c, 4d, 4e, 4f, 4g, 6a, and 11a as follows:

7 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

8 Sec. 1. For the purposes of this Act:

9 "Brand Style" means a variety of cigarettes distinguished
10 by the tobacco used, tar and nicotine content, flavoring used,
11 size of the cigarette, filtration on the cigarette or
12 packaging. "Cigarette", means any ~~when used in this Act, shall~~
13 ~~be construed to mean: Any~~ roll for smoking made wholly or in
14 part of tobacco irrespective of size or shape and whether or
15 not such tobacco is flavored, adulterated or mixed with any
16 other ingredient, and the wrapper or cover of which is made of
17 paper or any other substance or material except tobacco.

18 "Contraband cigarettes" means:

19 (a) cigarettes that do not bear a required tax stamp
20 under this Act;

21 (b) cigarettes for which any required federal taxes
22 have not been paid;

23 (c) cigarettes that bear a counterfeit tax stamp;

1 (d) cigarettes that are manufactured, fabricated,
2 assembled, processed, packaged, or labeled by any person
3 other than (i) the owner of the trademark rights in the
4 cigarette brand or (ii) a person that is directly or
5 indirectly authorized by such owner; or

6 (e) cigarettes imported into the United States, or
7 otherwise distributed, in violation of the federal
8 Imported Cigarette Compliance Act of 2000 (Title IV of
9 Public Law 106-476).

10 "Person" means any natural individual, firm, partnership,
11 association, joint stock company, joint adventure, public or
12 private corporation, however formed, limited liability
13 company, or a receiver, executor, administrator, trustee,
14 guardian or other representative appointed by order of any
15 court.

16 "Prior Continuous Compliance Taxpayer" means any person
17 who is licensed under this Act and who, having been a licensee
18 for a continuous period of 5 years, is determined by the
19 Department not to have been either delinquent or deficient in
20 the payment of tax liability during that period or otherwise in
21 violation of this Act. Also, any taxpayer who has, as verified
22 by the Department, continuously complied with the condition of
23 his bond or other security under provisions of this Act for a
24 period of 5 consecutive years shall be considered to be a
25 "Prior continuous compliance taxpayer". In calculating the
26 consecutive period of time described herein for qualification

1 as a "prior continuous compliance taxpayer", a consecutive
2 period of time of qualifying compliance immediately prior to
3 the effective date of this amendatory Act of 1987 shall be
4 credited to any licensee who became licensed on or before the
5 effective date of this amendatory Act of 1987.

6 "Department" means the Department of Revenue.

7 "Sale" means any transfer, exchange or barter in any manner
8 or by any means whatsoever for a consideration, and includes
9 and means all sales made by any person.

10 "Original Package" means the individual packet, box or
11 other container whatsoever used to contain and to convey
12 cigarettes to the consumer.

13 "Distributor" means any and each of the following:

14 (1) Any person engaged in the business of selling
15 cigarettes in this State who brings or causes to be brought
16 into this State from without this State any original packages
17 of cigarettes, on which original packages there is no
18 authorized evidence underneath a sealed transparent wrapper
19 showing that the tax liability imposed by this Act has been
20 paid or assumed by the out-of-State seller of such cigarettes,
21 for sale or other disposition in the course of such business.

22 (2) Any person who makes, manufactures or fabricates
23 cigarettes in this State for sale in this State, except a
24 person who makes, manufactures or fabricates cigarettes as a
25 part of a correctional industries program for sale to residents
26 incarcerated in penal institutions or resident patients of a

1 State-operated mental health facility.

2 (3) Any person who makes, manufactures or fabricates
3 cigarettes outside this State, which cigarettes are placed in
4 original packages contained in sealed transparent wrappers,
5 for delivery or shipment into this State, and who elects to
6 qualify and is accepted by the Department as a distributor
7 under Section 4b of this Act.

8 "Place of business" shall mean and include any place where
9 cigarettes are sold or where cigarettes are manufactured,
10 stored or kept for the purpose of sale or consumption,
11 including any vessel, vehicle, airplane, train or vending
12 machine.

13 "Business" means any trade, occupation, activity or
14 enterprise engaged in for the purpose of selling cigarettes in
15 this State.

16 "Retailer" means any person who engages in the making of
17 transfers of the ownership of, or title to, cigarettes to a
18 purchaser for use or consumption and not for resale in any
19 form, for a valuable consideration. "Retailer" does not include
20 a person:

21 (1) who transfers to residents incarcerated in penal
22 institutions or resident patients of a State-operated
23 mental health facility ownership of cigarettes made,
24 manufactured, or fabricated as part of a correctional
25 industries program; or

26 (2) who transfers cigarettes to a not-for-profit

1 research institution that conducts tests concerning the
2 health effects of tobacco products and who does not offer
3 the cigarettes for resale.

4 "Retailer" shall be construed to include any person who
5 engages in the making of transfers of the ownership of, or
6 title to, cigarettes to a purchaser, for use or consumption by
7 any other person to whom such purchaser may transfer the
8 cigarettes without a valuable consideration, except a person
9 who transfers to residents incarcerated in penal institutions
10 or resident patients of a State-operated mental health facility
11 ownership of cigarettes made, manufactured or fabricated as
12 part of a correctional industries program.

13 "Stamp" or "stamps" mean the indicia required to be placed
14 on a pack of cigarettes that evidence payment of the tax on
15 cigarettes under Section 2 of this Act (35 ILCS 130/2), or the
16 indicia used to indicate that the cigarettes are intended for a
17 sale or distribution within this State that is exempt from
18 State tax under any applicable provision of law.

19 "Within this State" means within the exterior limits of the
20 State of Illinois and includes all territory within these
21 limits owned by or ceded to the United States of America.

22 "Related party" means any person that is associated with
23 any other person because he or she:

24 (a) is an officer or director of a business;

25 (b) is legally recognized as a partner in business; or

26 (c) is directly or indirectly controlled by another.

1 (Source: P.A. 95-462, eff. 8-27-07.)

2 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

3 Sec. 3. Affixing tax stamp; remitting tax to the
4 Department. Payment of the taxes imposed by Section 2 of this
5 Act shall (except as hereinafter provided) be evidenced by
6 revenue tax stamps affixed to each original package of
7 cigarettes. Each distributor of cigarettes, before delivering
8 or causing to be delivered any original package of cigarettes
9 in this State to a purchaser, shall firmly affix a proper stamp
10 or stamps to each such package, or (in case of manufacturers of
11 cigarettes in original packages which are contained inside a
12 sealed transparent wrapper) shall imprint the required
13 language on the original package of cigarettes beneath such
14 outside wrapper, as hereinafter provided. Any stamp required by
15 this Act shall note whether the State tax under Section 2 of
16 this Act (35 ILCS 130/2) was paid or whether the pack of
17 cigarettes was not subject to such tax.

18 No stamp or imprint may be affixed to, or made upon, any
19 package of cigarettes unless that package complies with all
20 requirements of the federal Cigarette Labeling and Advertising
21 Act, 15 U.S.C. 1331 and following, for the placement of labels,
22 warnings, or any other information upon a package of cigarettes
23 that is sold within the United States. Under the authority of
24 Section 6, the Department shall revoke the license of any
25 distributor that is determined to have violated this paragraph.

1 A person may not affix a stamp on a package of cigarettes,
2 cigarette papers, wrappers, or tubes if that individual package
3 has been marked for export outside the United States with a
4 label or notice in compliance with Section 290.185 of Title 27
5 of the Code of Federal Regulations. It is not a defense to a
6 proceeding for violation of this paragraph that the label or
7 notice has been removed, mutilated, obliterated, or altered in
8 any manner.

9 Only distributors licensed under this Act or out-of-state
10 manufacturers holding a permit under this Act may receive
11 unstamped packs of cigarettes. Prior to shipment to another
12 person, each licensed distributor or out-of-state manufacturer
13 holding a permit shall apply a stamp to each pack of cigarettes
14 imported, distributed, or sold whether or not such cigarettes
15 are subject to State tax under Section 2 of this Act (35 ILCS
16 130/2) or any other provision of State law, provided that a
17 distributor or out-of-state manufacturer may only apply a tax
18 stamp to a pack of cigarettes purchased or obtained directly
19 from a licensed distributor or an out-of-state manufacturing
20 holding a permit. Only a licensed distributor or an
21 out-of-state manufacturer holding a permit may ship or
22 otherwise cause to be delivered unstamped packs of cigarettes
23 in, into, or from this State, provided that a licensed
24 distributor or an out-of-state manufacturer holding a permit
25 may transport unstamped packs of cigarettes to a facility,
26 wherever located, owned by such distributor or manufacturer.

1 Any person that ships or otherwise causes to be delivered
2 unstamped packs of cigarettes into, within, or from this State
3 shall ensure that the invoice or equivalent documentation and
4 the bill of lading or freight bill for the shipment identifies
5 the true name and address of the cosignor or seller, the true
6 name and address of the consignee or purchaser, and the quantity
7 by brand style of the cigarettes so transported, provided that
8 this Section shall not be construed as to impose any
9 requirement or liability upon any common or contract carrier.

10 The Department, or any person authorized by the Department,
11 shall sell such stamps only to persons holding valid licenses
12 as distributors under this Act. On and after July 1, 2003,
13 payment for such stamps must be made by means of electronic
14 funds transfer. The Department may refuse to sell stamps to any
15 person who does not comply with the provisions of this Act.
16 Beginning on the effective date of this amendatory Act of the
17 92nd General Assembly and through June 30, 2002, persons
18 holding valid licenses as distributors may purchase cigarette
19 tax stamps up to an amount equal to 115% of the distributor's
20 average monthly cigarette tax stamp purchases over the 12
21 calendar months prior to the effective date of this amendatory
22 Act of the 92nd General Assembly.

23 Prior to December 1, 1985, the Department shall allow a
24 distributor 21 days in which to make final payment of the
25 amount to be paid for such stamps, by allowing the distributor
26 to make payment for the stamps at the time of purchasing them

1 with a draft which shall be in such form as the Department
2 prescribes, and which shall be payable within 21 days
3 thereafter: Provided that such distributor has filed with the
4 Department, and has received the Department's approval of, a
5 bond, which is in addition to the bond required under Section 4
6 of this Act, payable to the Department in an amount equal to
7 80% of such distributor's average monthly tax liability to the
8 Department under this Act during the preceding calendar year or
9 \$500,000, whichever is less. The Bond shall be joint and
10 several and shall be in the form of a surety company bond in
11 such form as the Department prescribes, or it may be in the
12 form of a bank certificate of deposit or bank letter of credit.
13 The bond shall be conditioned upon the distributor's payment of
14 amount of any 21-day draft which the Department accepts from
15 that distributor for the delivery of stamps to that distributor
16 under this Act. The distributor's failure to pay any such
17 draft, when due, shall also make such distributor automatically
18 liable to the Department for a penalty equal to 25% of the
19 amount of such draft.

20 On and after December 1, 1985 and until July 1, 2003, the
21 Department shall allow a distributor 30 days in which to make
22 final payment of the amount to be paid for such stamps, by
23 allowing the distributor to make payment for the stamps at the
24 time of purchasing them with a draft which shall be in such
25 form as the Department prescribes, and which shall be payable
26 within 30 days thereafter, and beginning on January 1, 2003 and

1 thereafter, the draft shall be payable by means of electronic
2 funds transfer: Provided that such distributor has filed with
3 the Department, and has received the Department's approval of,
4 a bond, which is in addition to the bond required under Section
5 4 of this Act, payable to the Department in an amount equal to
6 150% of such distributor's average monthly tax liability to the
7 Department under this Act during the preceding calendar year or
8 \$750,000, whichever is less, except that as to bonds filed on
9 or after January 1, 1987, such additional bond shall be in an
10 amount equal to 100% of such distributor's average monthly tax
11 liability under this Act during the preceding calendar year or
12 \$750,000, whichever is less. The bond shall be joint and
13 several and shall be in the form of a surety company bond in
14 such form as the Department prescribes, or it may be in the
15 form of a bank certificate of deposit or bank letter of credit.
16 The bond shall be conditioned upon the distributor's payment of
17 the amount of any 30-day draft which the Department accepts
18 from that distributor for the delivery of stamps to that
19 distributor under this Act. The distributor's failure to pay
20 any such draft, when due, shall also make such distributor
21 automatically liable to the Department for a penalty equal to
22 25% of the amount of such draft.

23 Every prior continuous compliance taxpayer shall be exempt
24 from all requirements under this Section concerning the
25 furnishing of such bond, as defined in this Section, as a
26 condition precedent to his being authorized to engage in the

1 business licensed under this Act. This exemption shall continue
2 for each such taxpayer until such time as he may be determined
3 by the Department to be delinquent in the filing of any
4 returns, or is determined by the Department (either through the
5 Department's issuance of a final assessment which has become
6 final under the Act, or by the taxpayer's filing of a return
7 which admits tax to be due that is not paid) to be delinquent
8 or deficient in the paying of any tax under this Act, at which
9 time that taxpayer shall become subject to the bond
10 requirements of this Section and, as a condition of being
11 allowed to continue to engage in the business licensed under
12 this Act, shall be required to furnish bond to the Department
13 in such form as provided in this Section. Such taxpayer shall
14 furnish such bond for a period of 2 years, after which, if the
15 taxpayer has not been delinquent in the filing of any returns,
16 or delinquent or deficient in the paying of any tax under this
17 Act, the Department may reinstate such person as a prior
18 continuance compliance taxpayer. Any taxpayer who fails to pay
19 an admitted or established liability under this Act may also be
20 required to post bond or other acceptable security with the
21 Department guaranteeing the payment of such admitted or
22 established liability.

23 Any person aggrieved by any decision of the Department
24 under this Section may, within the time allowed by law, protest
25 and request a hearing, whereupon the Department shall give
26 notice and shall hold a hearing in conformity with the

1 provisions of this Act and then issue its final administrative
2 decision in the matter to such person. In the absence of such a
3 protest filed within the time allowed by law, the Department's
4 decision shall become final without any further determination
5 being made or notice given.

6 The Department shall discharge any surety and shall release
7 and return any bond or security deposited, assigned, pledged,
8 or otherwise provided to it by a taxpayer under this Section
9 within 30 days after:

10 (1) Such taxpayer becomes a prior continuous compliance
11 taxpayer; or

12 (2) Such taxpayer has ceased to collect receipts on which
13 he is required to remit tax to the Department, has filed a
14 final tax return, and has paid to the Department an amount
15 sufficient to discharge his remaining tax liability as
16 determined by the Department under this Act. The Department
17 shall make a final determination of the taxpayer's outstanding
18 tax liability as expeditiously as possible after his final tax
19 return has been filed. If the Department cannot make such final
20 determination within 45 days after receiving the final tax
21 return, within such period it shall so notify the taxpayer,
22 stating its reasons therefor.

23 The Department may authorize distributors to affix revenue
24 tax stamps by imprinting tax meter stamps upon original
25 packages of cigarettes. The Department shall adopt rules and
26 regulations relating to the imprinting of such tax meter stamps

1 as will result in payment of the proper taxes as herein
2 imposed. No distributor may affix revenue tax stamps to
3 original packages of cigarettes by imprinting tax meter stamps
4 thereon unless such distributor has first obtained permission
5 from the Department to employ this method of affixation. The
6 Department shall regulate the use of tax meters and may, to
7 assure the proper collection of the taxes imposed by this Act,
8 revoke or suspend the privilege, theretofore granted by the
9 Department to any distributor, to imprint tax meter stamps upon
10 original packages of cigarettes.

11 Illinois cigarette manufacturers who place their
12 cigarettes in original packages which are contained inside a
13 sealed transparent wrapper, and similar out-of-State cigarette
14 manufacturers who elect to qualify and are accepted by the
15 Department as distributors under Section 4b of this Act, shall
16 pay the taxes imposed by this Act by remitting the amount
17 thereof to the Department by the 5th day of each month covering
18 cigarettes shipped or otherwise delivered in Illinois to
19 purchasers during the preceding calendar month. Such
20 manufacturers of cigarettes in original packages which are
21 contained inside a sealed transparent wrapper, before
22 delivering such cigarettes or causing such cigarettes to be
23 delivered in this State to purchasers, shall evidence their
24 obligation to remit the taxes due with respect to such
25 cigarettes by imprinting language to be prescribed by the
26 Department on each original package of such cigarettes

1 underneath the sealed transparent outside wrapper of such
2 original package, in such place thereon and in such manner as
3 the Department may designate. Such imprinted language shall
4 acknowledge the manufacturer's payment of or liability for the
5 tax imposed by this Act with respect to the distribution of
6 such cigarettes.

7 A distributor shall not affix, or cause to be affixed, any
8 stamp or imprint to a package of cigarettes, as provided for in
9 this Section, if the tobacco product manufacturer, as defined
10 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
11 that made or sold the cigarettes has failed to become a
12 participating manufacturer, as defined in subdivision (a)(1)
13 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,
14 or has failed to create a qualified escrow fund for any
15 cigarettes manufactured by the tobacco product manufacturer
16 and sold in this State or otherwise failed to bring itself into
17 compliance with subdivision (a)(2) of Section 15 of the Tobacco
18 Product Manufacturers' Escrow Act.

19 (Source: P.A. 92-322, eff. 1-1-02; 92-536, eff. 6-6-02; 92-737,
20 eff. 7-25-02; 93-22, eff. 6-20-03.)

21 (35 ILCS 130/3-10)

22 Sec. 3-10. Cigarette enforcement.

23 (a) Prohibitions. It is unlawful for any person:

24 (1) to sell or distribute in this State; to acquire,
25 hold, own, possess, or transport, for sale or distribution

1 in this State; or to import, or cause to be imported into
2 this State for sale or distribution in this State:

3 (A) any cigarettes the package of which:

4 (i) bears any statement, label, stamp,
5 sticker, or notice indicating that the
6 manufacturer did not intend the cigarettes to be
7 sold, distributed, or used in the United States,
8 including but not limited to labels stating "For
9 Export Only", "U.S. Tax Exempt", "For Use Outside
10 U.S.", or similar wording; or

11 (ii) does not comply with:

12 (aa) all requirements imposed by or
13 pursuant to federal law regarding warnings and
14 other information on packages of cigarettes
15 manufactured, packaged, or imported for sale,
16 distribution, or use in the United States,
17 including but not limited to the precise
18 warning labels specified in the federal
19 Cigarette Labeling and Advertising Act, 15
20 U.S.C. 1333; and

21 (bb) all federal trademark and copyright
22 laws;

23 (B) any cigarettes imported into the United States
24 in violation of 26 U.S.C. 5754 or any other federal
25 law, or implementing federal regulations;

26 (C) any cigarettes that such person otherwise

1 knows or has reason to know the manufacturer did not
2 intend to be sold, distributed, or used in the United
3 States; or

4 (D) any cigarettes for which there has not been
5 submitted to the Secretary of the U.S. Department of
6 Health and Human Services the list or lists of the
7 ingredients added to tobacco in the manufacture of the
8 cigarettes required by the federal Cigarette Labeling
9 and Advertising Act, 15 U.S.C. 1335a;

10 (2) to alter the package of any cigarettes, prior to
11 sale or distribution to the ultimate consumer, so as to
12 remove, conceal, or obscure:

13 (A) any statement, label, stamp, sticker, or
14 notice described in subdivision (a)(1)(A)(i) of this
15 Section;

16 (B) any health warning that is not specified in, or
17 does not conform with the requirements of, the federal
18 Cigarette Labeling and Advertising Act, 15 U.S.C.
19 1333; ~~or~~

20 (3) to affix any stamp required pursuant to this Act to
21 the package of any cigarettes described in subdivision
22 (a)(1) of this Section or altered in violation of
23 subdivision (a)(2); or

24 (4) to knowingly possess, or possess for sale,
25 contraband cigarettes.

26 (b) Documentation. On the first business day of each month,

1 each person licensed to affix the State tax stamp to cigarettes
2 shall file with the Department, for all cigarettes imported
3 into the United States to which the person has affixed the tax
4 stamp in the preceding month:

5 (1) a copy of:

6 (A) the permit issued pursuant to the Internal
7 Revenue Code, 26 U.S.C. 5713, to the person importing
8 the cigarettes into the United States allowing the
9 person to import the cigarettes; and

10 (B) the customs form containing, with respect to
11 the cigarettes, the internal revenue tax information
12 required by the U.S. Bureau of Alcohol, Tobacco and
13 Firearms;

14 (2) a statement, signed by the person under penalty of
15 perjury, which shall be treated as confidential by the
16 Department and exempt from disclosure under the Freedom of
17 Information Act, identifying the brand and brand styles of
18 all such cigarettes, the quantity of each brand style of
19 such cigarettes, the supplier of such cigarettes, and the
20 person or persons, if any, to whom such cigarettes have
21 been conveyed for resale; and a separate statement, signed
22 by the individual under penalty of perjury, which shall not
23 be treated as confidential or exempt from disclosure,
24 separately identifying the brands and brand styles of such
25 cigarettes; and

26 (3) a statement, signed by an officer of the

1 manufacturer or importer under penalty of perjury,
2 certifying that the manufacturer or importer has complied
3 with:

4 (A) the package health warning and ingredient
5 reporting requirements of the federal Cigarette
6 Labeling and Advertising Act, 15 U.S.C. 1333 and 1335a,
7 with respect to such cigarettes; and

8 (B) the provisions of Exhibit T of the Master
9 Settlement Agreement entered in the case of People of
10 the State of Illinois v. Philip Morris, et al. (Circuit
11 Court of Cook County, No. 96-L13146), including a
12 statement indicating whether the manufacturer is, or
13 is not, a participating tobacco manufacturer within
14 the meaning of Exhibit T.

15 (c) Administrative sanctions.

16 (1) Upon finding that a distributor has committed any
17 of the acts prohibited by subsection (a), knowing or having
18 reason to know that he or she has done so, or has failed to
19 comply with any requirement of subsection (b), the
20 Department may revoke or suspend the license or licenses of
21 any distributor pursuant to the procedures set forth in
22 Section 6 and impose on the distributor a civil penalty in
23 an amount not to exceed the greater of 500% of the retail
24 value of the cigarettes involved or \$5,000.

25 (2) Cigarettes that are acquired, held, owned,
26 possessed, transported in, imported into, or sold or

1 distributed in this State in violation of this Section
2 shall be deemed contraband under this Act and are subject
3 to seizure and forfeiture as provided in this Act, and all
4 such cigarettes seized and forfeited shall be destroyed.
5 Such cigarettes shall be deemed contraband whether the
6 violation of this Section is knowing or otherwise.

7 (d) Unfair trade practices. A violation of subsection (a)
8 or subsection (b) of this Section shall constitute an unlawful
9 practice as provided in the Consumer Fraud and Deceptive
10 Business Practices Act.

11 (e) Unfair cigarette sales. For purposes of the Trademark
12 Registration and Protection Act and the Counterfeit Trademark
13 Act, cigarettes imported or reimported into the United States
14 for sale or distribution under any trade name, trade dress, or
15 trademark that is the same as, or is confusingly similar to,
16 any trade name, trade dress, or trademark used for cigarettes
17 manufactured in the United States for sale or distribution in
18 the United States shall be presumed to have been purchased
19 outside of the ordinary channels of trade.

20 (f) General provisions.

21 (1) This Section shall be enforced by the Department;
22 provided that, at the request of the Director of Revenue or
23 the Director's duly authorized agent, the State police and
24 all local police authorities shall enforce the provisions
25 of this Section. The Attorney General has concurrent power
26 with the State's Attorney of any county to enforce this

1 Section.

2 (2) For the purpose of enforcing this Section, the
3 Director of Revenue and any agency to which the Director
4 has delegated enforcement responsibility pursuant to
5 subdivision (f)(1) may request information from any State
6 or local agency and may share information with and request
7 information from any federal agency and any agency of any
8 other state or any local agency of any other state.

9 (3) In addition to any other remedy provided by law,
10 including enforcement as provided in subdivision (a)(1),
11 any person may bring an action for appropriate injunctive
12 or other equitable relief for a violation of this Section;
13 actual damages, if any, sustained by reason of the
14 violation; and, as determined by the court, interest on the
15 damages from the date of the complaint, taxable costs, and
16 reasonable attorney's fees. If the trier of fact finds that
17 the violation is flagrant, it may increase recovery to an
18 amount not in excess of 3 times the actual damages
19 sustained by reason of the violation.

20 (g) Definitions. As used in this Section:

21 "Importer" means that term as defined in 26 U.S.C. 5702(1).

22 "Package" means that term as defined in 15 U.S.C. 1332(4).

23 (h) Applicability.

24 (1) This Section does not apply to:

25 (A) cigarettes allowed to be imported or brought
26 into the United States for personal use; and

1 (B) cigarettes sold or intended to be sold as
2 duty-free merchandise by a duty-free sales enterprise
3 in accordance with the provisions of 19 U.S.C. 1555(b)
4 and any implementing regulations; except that this
5 Section shall apply to any such cigarettes that are
6 brought back into the customs territory for resale
7 within the customs territory.

8 (2) The penalties provided in this Section are in
9 addition to any other penalties imposed under other
10 provision of law.

11 (Source: P.A. 91-810, eff. 6-13-00.)

12 (35 ILCS 130/3-15 new)

13 Sec. 3-15. Criminal and civil penalties.

14 (a) Civil penalties.

15 (1) Distributors and manufacturers. Except as
16 otherwise provided in this Section, a first violation of
17 any provision of this Act by a manufacturer or distributor
18 shall, in addition to any other penalty provided in this
19 Act, be punishable by a fine of \$5,000 for each separate
20 violation, which shall be recovered, with costs of suit, in
21 a civil action. Any subsequent violation of any provision
22 of this Act by a manufacturer or distributor shall be
23 punishable by a fine of \$10,000 for each separate
24 violation. In no case shall the fine imposed under this
25 paragraph exceed 10 times the retail value of the

1 cigarettes.

2 (2) Retailers. Except as otherwise provided in this
3 Section, a first violation of any provision of this Act by
4 a retailer shall, in addition to any other penalty provided
5 in this Act, be punishable by a fine of \$1,000 for each
6 separate violation, which shall be recovered, with costs of
7 suit, in a civil action. Any subsequent violation of any
8 provision of this Act by a retailer shall be punishable by
9 a fine of \$2,000 for each separate violation. In no case
10 shall the fine imposed under this paragraph exceed 10 times
11 the retail value of the cigarettes.

12 (3) Failure to pay tax. Any person that fails to pay
13 any tax imposed by this State at the time prescribed by law
14 or regulations shall, in addition to any other penalty
15 provided in this Act, be liable to a penalty of 3 times the
16 tax due but unpaid, to help defray the costs of detection
17 and investigation and any consequential damages. In no case
18 shall the fine imposed under this paragraph exceed 10 times
19 the retail value of the cigarettes.

20 (4) Civil forfeiture.

21 (A) All cigarettes which are held for sale or
22 distribution within this State in violation of the
23 requirements of this Act shall be forfeited to this
24 State. All cigarettes forfeited to this State under
25 this Act shall be destroyed. The Department may, prior
26 to any destruction of cigarettes, permit the true

1 holder of the trademark rights in the cigarette brand
2 to inspect such contraband cigarettes, in order to
3 assist the Department in any investigation regarding
4 such cigarettes.

5 (B) Any person that, with intent to defraud the
6 State:

7 (i) fails to keep or make any record, return,
8 report, or inventory required by this Act;

9 (ii) keeps or makes any false or fraudulent
10 record, return, report, or inventory required by
11 this Act;

12 (iii) refuses to pay any tax imposed by this
13 Act; or

14 (iv) attempts in any manner to evade or defeat
15 the requirements of this Act shall forfeit to the
16 State all fixtures, equipment, and other materials
17 with a substantial connection to such conduct.

18 (C) A distributor or retailer shall not be required
19 to forfeit fixtures, equipment, and all other
20 materials and personal property on the premises if such
21 distributor or retailer:

22 (i) acted in good faith;

23 (ii) was not involved in or aware of the
24 unlawful activity prohibited by this Act; and

25 (iii) did all that reasonably could be
26 expected under the circumstances to prevent

1 violations of this Act.

2 (5) Notwithstanding any other provision of law, the
3 Department may use proceeds from civil penalties imposed
4 under this Section to offset necessary and reasonable
5 expenses incurred in the detection and investigation of the
6 failure of any person to pay any cigarette tax imposed by
7 this State.

8 (b) Criminal penalties.

9 (1) Fraudulent offenses. Whoever intentionally fails
10 to comply with any of the requirements of this Act or
11 regulations prescribed hereunder shall, in addition to any
12 other penalty provided in this Act, for each such offense,
13 be guilty of a Class 3 felony.

14 (2) Knowing offenses. Whoever, knowingly violates any
15 of the requirements of this Act or regulations prescribed
16 hereunder shall, in addition to any other penalty provided
17 in this Act, for each such offense, be guilty of a Class 4
18 felony.

19 (3) Penalties for contraband. Notwithstanding any
20 other provision of law, the possession for sale of
21 contraband cigarettes by a manufacturer, distributor, or
22 retailer shall be punishable as follows:

23 (A) A person who commits a first knowing violation
24 shall be guilty of a Class 4 felony.

25 (B) A person who commits a subsequent knowing
26 violation shall be guilty of a Class 3 felony and shall

1 have his or her license, permit, or sub-certificate
2 revoked by the Department. In no case shall the fine
3 imposed under this paragraph exceed ten times the
4 retail value of the cigarettes.

5 (4) For purposes of this Section, the term contraband
6 cigarettes includes cigarettes that have false
7 manufacturing labels or packs of cigarettes bearing
8 counterfeit tax stamps. Any contraband cigarette seized by
9 this State shall be destroyed. The Department may, prior to
10 any destruction of cigarettes, permit the true holder of
11 the trademark rights in the cigarette brand to inspect such
12 contraband cigarettes, in order to assist the Department in
13 any investigation regarding such cigarettes.

14 (5) The penalties provided in paragraph (3) shall not
15 apply where a licensed distributor is in possession of
16 contraband cigarettes as a result of such cigarettes being
17 returned to the distributor by a retailer if such
18 distributor promptly notified appropriate law enforcement
19 authorities.

20 (6) Criminal forfeiture.

21 (A) Notwithstanding any other provision of law,
22 the possession for sale of contraband cigarettes by a
23 manufacturer, distributor, or retailer shall, after
24 notice and hearing, result in the forfeiture to this
25 State of the product and related machinery and
26 equipment used in the production of contraband

1 cigarettes, or to falsely mark cigarettes to reflect
2 the payment of excise taxes.

3 (B)The knowing sale or possession for sale of
4 contraband cigarettes shall, after notice and hearing,
5 result in the seizure of all related machinery and
6 equipment.

7 (C) All cigarettes forfeited to this State under
8 this Section shall be destroyed. The Department may,
9 prior to any destruction of cigarettes, permit the true
10 holder of the trademark rights in the cigarette brand
11 to inspect such contraband cigarettes, in order to
12 assist the Department in any investigation regarding
13 such cigarettes.

14 (35 ILCS 130/3-20 new)

15 Sec. 3-20. Limitation on retail sales. A retailer shall not
16 knowingly sell or distribute more than 10 cartons of cigarettes
17 to any person in a single transaction or in any series of
18 transactions within a twenty-four hour period; provided,
19 however, that a retailer that is licensed as a distributor may
20 make any sales permitted to be made by a distributor under this
21 Act when acting in that capacity.

22 (35 ILCS 130/4) (from Ch. 120, par. 453.4)

23 Sec. 4. Distributor's license. No person may engage in
24 business as a distributor of cigarettes in this State within

1 the meaning of the first 2 definitions of distributor in
2 Section 1 of this Act without first having obtained a license
3 therefor from the Department. Application for license shall be
4 made to the Department in form as furnished and prescribed by
5 the Department. Each applicant for a license under this Section
6 shall furnish to the Department on the form signed and verified
7 by the applicant under penalty of perjury the following
8 information:

9 (a) If the applicant is an individual, the name and
10 business address of the applicant;

11 (b) If the applicant is a firm, partnership, or
12 association, the name and business address of each of its
13 members and any related party;

14 (c) If the applicant is an individual, the identity of
15 any license holder in which the individual, directly or
16 indirectly, owns more than 15 percent of the ownership
17 interests;

18 (d) If the applicant is a corporation or limited
19 liability company, the name and business address of each of
20 its officers and the name and business address of any
21 person that owns, directly or indirectly, in the aggregate,
22 more than 15 percent of the ownership interests in the
23 corporation or limited liability company and the name and
24 business address of any license holder in which the
25 applicant owns more than 15 percent of the ownership
26 interests;

1 (e) The name under which such applicant regularly does
2 business;

3 (f) The physical address of the applicant's principal
4 place of business and any other place of business within
5 this State;

6 (g) In the case of a distributor who manufacturers or
7 imports cigarettes, the brand styles of cigarettes the
8 applicant manufactures or imports;

9 (h) The kind or nature of the business to be conducted;

10 (i) Sufficient information to demonstrate that the
11 applicant has complied or will comply with all of the
12 requirements of this Act, including the identity of any
13 related party;

14 (j) Whether the applicant has committed any act in the
15 previous 5 years that would render the applicant ineligible
16 for a license or whether the applicant has been convicted
17 of a crime related to contraband cigarettes, punishable by
18 imprisonment of one year or more; or

19 ~~(a) The name and address of the applicant;~~

20 ~~(b) The address of the location at which the applicant~~
21 ~~proposes to engage in business as a distributor of~~
22 ~~cigarettes in this State;~~

23 (k) ~~(e)~~ Such other additional information as the
24 Department may lawfully require by its rules and
25 regulations.

26 The annual license fee payable to the Department for each

1 distributor's license shall be \$250. The purpose of such annual
2 license fee is to defray the cost, to the Department, of
3 serializing cigarette tax stamps. Each applicant for license
4 shall pay such fee to the Department at the time of submitting
5 his application for license to the Department.

6 Every applicant who is required to procure a distributor's
7 license shall file with his application a joint and several
8 bond. Such bond shall be executed to the Department of Revenue,
9 with good and sufficient surety or sureties residing or
10 licensed to do business within the State of Illinois, in the
11 amount of \$2,500, conditioned upon the true and faithful
12 compliance by the licensee with all of the provisions of this
13 Act. Such bond, or a reissue thereof, or a substitute therefor,
14 shall be kept in effect during the entire period covered by the
15 license. A separate application for license shall be made, a
16 separate annual license fee paid, and a separate bond filed,
17 for each place of business at which a person who is required to
18 procure a distributor's license under this Section proposes to
19 engage in business as a distributor in Illinois under this Act.

20 The following are ineligible to receive a distributor's
21 license under this Act:

22 (1) a person who is not of good character and
23 reputation in the community in which he resides;

24 (2) a person who has been convicted of a felony
25 under any Federal or State law, if the Department,
26 after investigation and a hearing, if requested by the

1 applicant, determines that such person has not been
2 sufficiently rehabilitated to warrant the public
3 trust;

4 (3) a corporation, if any officer, manager or
5 director thereof, or any stockholder or stockholders
6 owning in the aggregate more than 5% of the stock of
7 such corporation, would not be eligible to receive a
8 license under this Act for any reason.

9 (4) a person, or any person who owns more than 15
10 percent of the ownership interests in a person or a
11 related party who:

12 (a) owes, at the time of application, \$500 or
13 more in delinquent cigarette taxes that have been
14 determined by law to be due and unpaid, unless the
15 license applicant has entered into an agreement
16 approved by the Department to pay the amount due;

17 (b) had a license under this Act revoked within
18 the past two years by the Department for willful
19 misconduct relating to stolen or contraband
20 cigarettes or has been convicted of a State or
21 federal crime, punishable by imprisonment of one
22 year or more, relating to stolen or contraband
23 cigarettes;

24 (c) is a distributor who manufactures
25 cigarettes who is neither (i) a participating
26 manufacturer as defined in subsection II(jj) of

1 the "Master Settlement Agreement" as defined in
2 Sections 10 of the Tobacco Products Manufacturers'
3 Escrow Act and the Tobacco Products Manufacturers'
4 Escrow Enforcement Act of 2003 (30 ILCS 168/10 and
5 30 ILCS 167/10); nor (ii) in full compliance with
6 Tobacco Products Manufacturers' Escrow Act and the
7 Tobacco Products Manufacturers' Escrow Enforcement
8 Act of 2003 (30 ILCS 168/ and 30 ILCS 167/);

9 (d) has been found to have willfully imported
10 or caused to be imported into the United States for
11 sale or distribution any cigarette in violation of
12 19 U.S.C. 1681a;

13 (e) has been found to have willfully imported
14 or caused to be imported into the United States for
15 sale or distribution or manufactured for sale or
16 distribution in the United States any cigarette
17 that does not fully comply with the Federal
18 Cigarette Labeling and Advertising Act (15 U.S.C.
19 1331, et. seq.); or

20 (f) has willfully made a material false
21 statement in the application or has willfully
22 failed to produce records required to be
23 maintained by this Act.

24 The Department, upon receipt of an application, license fee
25 and bond in proper form, from a person who is eligible to
26 receive a distributor's license under this Act, shall issue to

1 such applicant a revocable license in form as prescribed by the
2 Department, which license shall permit the applicant to which
3 it is issued to engage in business as a distributor at the
4 place shown in his application. A distributor that operates at
5 multiple locations within this State must possess a separate,
6 individual license for each such location. To assist in the
7 valid administrative needs of the Department, the Department
8 shall assign each licensee a unique numerical identifier. All
9 licenses issued by the Department under this Act shall be valid
10 for not to exceed one year after issuance unless sooner
11 revoked, canceled or suspended as provided in this Act. No
12 license issued under this Act is transferable or assignable.
13 Such license shall be conspicuously displayed in the place of
14 business conducted by the licensee in Illinois under such
15 license. No distributor licensee acquires any vested interest
16 or compensable property right in a license issued under this
17 Act.

18 A licensed distributor shall notify the Department of any
19 change in the information contained on the application form,
20 including any change in ownership and shall do so within 30
21 days after any such change.

22 Any person aggrieved by any decision of the Department
23 under this Section may, within 20 days after notice of the
24 decision, protest and request a hearing. Upon receiving a
25 request for a hearing, the Department shall give notice to the
26 person requesting the hearing of the time and place fixed for

1 the hearing and shall hold a hearing in conformity with the
2 provisions of this Act and then issue its final administrative
3 decision in the matter to that person. In the absence of a
4 protest and request for a hearing within 20 days, the
5 Department's decision shall become final without any further
6 determination being made or notice given.

7 (Source: P.A. 91-901, eff. 1-1-01; 92-322, eff. 1-1-02.)

8 (35 ILCS 130/4c new)

9 Sec. 4c. Retailer's sub-certificate of registration. No
10 person may engage in business as a retailer in this State
11 without having obtained both a certificate of registration
12 described in Section 2a of the Retailers' Occupation Tax Act
13 (35 ILCS 120/2a) and a sub-certificate of registration
14 described in this Section. To engage in the business of selling
15 cigarettes at retail, retailers must obtain and maintain a
16 sub-certificate of registration from the Department prior to
17 the date of issuance or renewal of a retailer certificate of
18 registration. Such retailer sub-certificates shall be issued
19 without charge in such form as the Department may prescribe and
20 shall not be transferable or assignable.

21 The expiration date of a retailer's sub-certificate of
22 registration shall be that of the certificate of registration
23 to which the sub-certificate relates, but shall not be valid
24 after the expiration of 5 years from the date of its issuance
25 or last renewal. The retailer's sub-certificate of

1 registration shall not renew automatically. Sub-certificates
2 of registration shall be renewed only upon timely application.

3 The Department shall issue sub-certificates of
4 registration to retailers pursuant to this Act and under such
5 terms and conditions as it may determine to further the
6 requirements of this Act for each separate place of business
7 for each retailer within this State. Retailers shall
8 prominently display the appropriate sub-certificate of
9 registration at each place of business in such a manner as to
10 ensure that it is visible to all persons entering the place of
11 business. All sub-certificates of registration shall bear the
12 same registration number as that appearing upon the certificate
13 of registration to which the sub-certificate relates.

14 Application for a retailer's sub-certificate of
15 registration or a renewal thereof shall be made to the
16 Department upon forms furnished and prescribed by the
17 Department. Each such application shall be signed and verified
18 under penalty of perjury and shall state:

19 (1) if the applicant is an individual, the name and
20 business address of the applicant;

21 (2) if the applicant is a firm, partnership, or
22 association, the name and business address of each of its
23 members and any related party;

24 (3) if the applicant is an individual, the identity of
25 any distributor, manufacturer, or retailer in which the
26 individual, directly or indirectly, owns more than 15

1 percent of the ownership interests;

2 (4) if the applicant is a corporation or limited
3 liability company, the name and business address of each of
4 its officers and the name and business address of any
5 person who owns, directly or indirectly, in the aggregate,
6 more than 15 percent of the ownership interests in the
7 corporation or limited liability company and the name and
8 business address of any distributor, manufacturer, or
9 retailer in which the applicant owns more than 15 percent
10 of the ownership interests;

11 (5) the name under which such applicant regularly does
12 business;

13 (6) the physical address of the applicant's principal
14 place of business and any other place of business within
15 this state;

16 (7) the kind or nature of the business to be conducted;

17 (8) sufficient information to demonstrate that the
18 applicant has complied or will comply with all of the
19 requirements of this Act, including the identity of any
20 related party; and

21 (9) whether the applicant has committed any act in the
22 previous 5 years that would render the applicant ineligible
23 for a sub-certificate of registration or whether the
24 applicant has been convicted of a crime related to
25 contraband cigarettes, punishable by imprisonment of one
26 year or more.

1 The Department shall not grant or renew a sub-certificate
2 of registration or allow such a sub-certificate to be
3 maintained if it determines the applicant or any person who
4 owns more than 15 percent of the ownership interests in the
5 applicant or a related party:

6 (1) owes, at the time of application, \$500 or more in
7 delinquent cigarette or retail taxes that have been
8 determined by law to be due and unpaid, unless the
9 applicant has entered into an agreement approved by the
10 Department to pay the amount due;

11 (2) had a sub-certificate of registration under this
12 Act revoked within the past two years by the Department for
13 willful misconduct relating to stolen or contraband
14 cigarettes or has been convicted of a State or Federal
15 crime, punishable by imprisonment of one year or more,
16 relating to stolen or contraband cigarettes;

17 (3) has been found to have willfully imported or caused
18 to be imported into the United States for sale or
19 distribution any cigarette in violation of 19 U.S.C. 1681a;

20 (4) has been found to have willfully imported or caused
21 to be imported into the United States for sale or
22 distribution or manufactured for sale or distribution in
23 the United States any cigarette that does not fully comply
24 with the Federal Cigarette Labeling and Advertising Act (15
25 U.S.C. 1331, et. seq.); or

26 (5) has willfully made a material false statement in

1 the application or has willfully failed to produce records
2 required to be maintained by this Act.

3 A retailer shall notify the Department of any change in the
4 information contained on the application form, including any
5 change in ownership and shall do so within 30 days of any such
6 change.

7 No retailer acquires any vested interest or compensable
8 property right in a sub-certificate of registration issued
9 under this Act.

10 (35 ILCS 130/4d new)

11 Sec. 4d. Transactions only with licensed distributors,
12 out-of-state manufacturers holding a permit, and retailers
13 holding a sub-certificate of registration. A distributor or
14 manufacturer may sell or distribute cigarettes to a person
15 located or doing business within this State only if such person
16 is a licensed distributor or retailer holding a sub-certificate
17 of registration. A retailer may only sell cigarettes obtained
18 from a licensed distributor or an out-of-state manufacturer
19 holding a permit.

20 (35 ILCS 130/4e new)

21 Sec. 4e. Proof of license, permit, or sub-certificate
22 required. A distributor, manufacturer, or retailer shall,
23 prior to the initial sale or exchange of cigarettes with any
24 person that is required to be licensed, hold a permit, or hold

1 a sub-certificate under this Act, require proof of a valid
2 license, permit, or sub-certificate for the relevant business
3 location issued under this Act.

4 (35 ILCS 130/4f new)

5 Sec. 4f. Maintenance of and publication of list of
6 licenses, permits, and sub-certificates issued. Within 30 days
7 after the effective date of this amendatory Act of the 95th
8 General Assembly, the Department shall create and maintain a
9 website setting forth the identity of all persons issued
10 licenses, permits, or sub-certificates under this Act and the
11 business locations of each licensee, permittee, or
12 sub-certificate holder, itemized by type of license, permit, or
13 certificate possessed, and shall update the website no less
14 frequently than once per month. The Department shall, at a
15 minimum, include on the website the legal name of the licensee,
16 permittee, or sub-certificate holder, the numerical identifier
17 issued to the licensee, permittee, or sub-certificate holder,
18 and any name under which such licensee, permittee, or
19 sub-certificate holder regularly does business.

20 (35 ILCS 130/4g new)

21 Sec. 4g. Maintenance of and publication of list of
22 licensees, permittees, and sub-certificate holders whose
23 licenses, permits, or sub-certificates have been suspended,
24 cancelled, or revoked. Within 30 days after the effective date

1 of this amendatory Act of the 95th General Assembly, the
2 Department shall create and maintain a website setting forth
3 the identity of all persons whose licenses, permits, or
4 sub-certificates have been suspended, cancelled, or revoked
5 under this Act within the past 3 years, itemized by type of
6 license, permit, or sub-certificate, and shall update the
7 website within 30 days after the date the Department suspends,
8 cancels, or revokes any person's license, permit, or
9 sub-certificate. The Department shall, at a minimum, include on
10 the website the legal name, the business locations, the unique
11 numerical identifier issued prior to the suspension,
12 cancellation, or revocation of the, and any name under which
13 such licensee, permittee, or sub-certificate holder regularly
14 does business.

15 (35 ILCS 130/5) (from Ch. 120, par. 453.5)

16 Sec. 5. Printing tax stamps. The Department shall adopt the
17 design or designs of the tax stamps or alternative tax indicia
18 and shall procure the printing of such stamps or alternative
19 tax indicia in such amounts and denominations as it deems
20 necessary to provide for the affixation of the proper amount of
21 tax stamps or alternative tax indicia to each original package
22 of cigarettes.

23 Each roll or sheet of tax stamps shall have a separate and
24 unique serial number that shall be clearly visible at the point
25 of sale. The Department shall keep records of which licensed

1 distributor or out-of-state manufacturer holding a permit
2 purchases each roll or sheet of stamps identified by serial
3 number.

4 Each licensed distributor or out-of-state manufacturer
5 holding a permit authorized by the Department to make meter
6 impressions shall be assigned a unique meter impression number,
7 which number shall not be used by any other distributor or
8 manufacturer and shall be visible and easily identifiable on
9 the impression at the point of sale on each pack of cigarettes.

10 The Department shall keep records detailing the meter
11 impression number assigned to each licensed distributor or
12 out-of-state manufacturer holding a permit.

13 (Source: P.A. 92-322, eff. 1-1-02.)

14 (35 ILCS 130/6a new)

15 Sec. 6a. Revocation, cancellation, or suspension of
16 retailer's sub-certificate of registration. The Department
17 may, after notice and hearing as provided for by this Act,
18 revoke, cancel or suspend a retailers' sub-certificate of
19 registration for the violation of any provision of this Act, or
20 for noncompliance with any provision herein contained, or for
21 any noncompliance with any lawful rule or regulation
22 promulgated by the Department, or because the sub-certificate
23 holder is determined to be ineligible for a retailer's
24 sub-certificate of registration for any one or more of the
25 reasons provided for in Section 4c of this Act (35 ILCS

1 130/4c). However, no such sub-certificate shall be revoked,
2 cancelled or suspended, except after a hearing by the
3 Department with notice to the retailer, as aforesaid, and
4 affording such retailer a reasonable opportunity to appear and
5 defend, and any retailer aggrieved by any decision of the
6 Department with respect thereto may have the determination of
7 the Department judicially reviewed, as herein provided.

8 A retailer's sub-certificate of registration is revoked,
9 cancelled, or suspended if the retail certificate of
10 registration to which it relates is revoked, cancelled, or
11 suspended. However, no such sub-certificate shall be revoked,
12 cancelled, or suspended, except after a hearing by the
13 Department with notice to the retailer, as aforesaid, and
14 affording such retailer a reasonable opportunity to appear and
15 defend, and any retailer aggrieved by any decision of the
16 Department with respect thereto may have the determination of
17 the Department judicially reviewed, as herein provided.

18 Any retailer aggrieved by any decision of the Department
19 under this Section may, within 20 days after notice of the
20 decision, protest and request a hearing. Upon receiving a
21 request for a hearing, the Department shall give notice in
22 writing to the retailer requesting the hearing that contains a
23 statement of the charges preferred against the retailer and
24 that states the time and place fixed for the hearing. The
25 Department shall hold the hearing in conformity with the
26 provisions of this Act and then issue its final administrative

1 decision in the matter to the retailer. In the absence of a
2 protest and request for a hearing within 20 days, the
3 Department's decision shall become final without any further
4 determination being made or notice given.

5 No sub-certificate so revoked, as aforesaid, shall be
6 reissued to any such retailer within a period of 6 months after
7 the date of the final determination of such revocation. No such
8 sub-certificate shall be reissued at all so long as the person
9 who would receive the sub-certificate is ineligible to receive
10 a retailer's sub-certificate of registration under this Act for
11 any one or more of the reasons provided for in Section 4c of
12 this Act (35 ILCS 130/4c).

13 The Department, upon complaint filed in the circuit court,
14 may by injunction restrain any person who fails, or refuses, to
15 comply with any of the provisions of this Act from acting as a
16 retailer of cigarettes in this State.

17 (35 ILCS 130/11) (from Ch. 120, par. 453.11)

18 Sec. 11. Every distributor of cigarettes, who is required
19 to procure a license under this Act, shall keep within
20 Illinois, at his licensed address, complete and accurate
21 records of cigarettes held, purchased, manufactured, brought
22 in or caused to be brought in from without the State, and sold,
23 or otherwise disposed of, and shall preserve and keep within
24 Illinois at his licensed address all invoices, bills of lading,
25 sales records, copies of bills of sale, inventory at the close

1 of each period for which a return is required of all cigarettes
2 on hand and of all cigarette revenue stamps, both affixed and
3 unaffixed, and other pertinent papers and documents relating to
4 the manufacture, purchase, sale or disposition of cigarettes.
5 All books and records and other papers and documents that are
6 required by this Act to be kept shall be itemized by quantity
7 and brand style, itemized for each of the distributor's
8 facilities, kept in the English language, and shall, at all
9 times during the usual business hours of the day, be subject to
10 inspection by the Department or its duly authorized agents and
11 employees. The Department may adopt rules that establish
12 requirements, including record forms and formats, for records
13 required to be kept and maintained by taxpayers. For purposes
14 of this Section, "records" means all data maintained by the
15 taxpayer, including data on paper, microfilm, microfiche or any
16 type of machine-sensible data compilation. Those books,
17 records, papers and documents shall be preserved for a period
18 of at least 3 years after the date of the documents, or the
19 date of the entries appearing in the records, unless the
20 Department, in writing, authorizes their destruction or
21 disposal at an earlier date. At all times during the usual
22 business hours of the day any duly authorized agent or employee
23 of the Department may enter any place of business of the
24 distributor, without a search warrant, and inspect the premises
25 and the stock or packages of cigarettes and the vending devices
26 therein contained, to determine whether any of the provisions

1 of this Act are being violated. If such agent or employee is
2 denied free access or is hindered or interfered with in making
3 such examination as herein provided, the license of the
4 distributor at such premises shall be subject to revocation by
5 the Department.

6 (Source: P.A. 88-480.)

7 (35 ILCS 130/11a new)

8 Sec. 11a. Retailer records. Every cigarette retailer who is
9 required to procure a sub-certificate of registration under
10 this Act shall keep within Illinois, at the corresponding place
11 of business, copies of invoices or equivalent documentation,
12 itemized by quantity and brand style, for each transaction
13 involving the sale, purchase, transfer, consignment, or
14 receipt of packs of cigarettes.

15 Records required under this Section shall be preserved on
16 the premises described in the relevant sub-certificate of
17 registration in such a manner as to ensure permanency and
18 accessibility for inspection. All books and records and other
19 papers and documents required by this Act to be kept shall be
20 kept in the English language, and shall, at all times during
21 the usual business hours of the day, be subject to inspection
22 by the Department or its duly authorized agents and employees.
23 Such books and records shall be preserved for a period of at
24 least 3 years after the date of the documents, or the date of
25 the entries appearing in the records.

1 At all times during the usual business hours of the day any
2 duly authorized agent or employee of the Department may enter
3 any place of business of the retailer, without a search
4 warrant, and inspect the premises and the stock or packages of
5 cigarettes and the vending devices therein contained, to
6 determine whether any of the provisions of this Act are being
7 violated. If such agent or employee is denied free access or is
8 hindered or interfered with in making such examination as
9 herein provided, the sub-certificate of the retailer at such
10 premises shall be subject to revocation by the Department.

11 The Department is authorized to disclose to the Attorney
12 General any information received under this Section and
13 requested by the Attorney General. The Department and the
14 Attorney General shall share with each other the information
15 received under this Section and may share the information with
16 other federal, State, or local agencies for purposes of
17 enforcement of this Act or the laws of the Federal government
18 or of other States.

19 (35 ILCS 130/20) (from Ch. 120, par. 453.20)

20 Sec. 20. Whenever any peace officer of the State or any
21 duly authorized officer or employee of the Department shall
22 have reason to believe that any violation of this Act has
23 occurred and that the person so violating the Act has in his,
24 her or its possession any original package of cigarettes, not
25 tax stamped or tax imprinted underneath the sealed transparent

1 wrapper of such original package as required by this Act, or
2 any vending device containing such original packages to which
3 stamps have not been affixed, or on which an authorized
4 substitute for stamps has not been imprinted underneath the
5 sealed transparent wrapper of such original packages, as
6 required by this Act, he may file or cause to be filed his
7 complaint in writing, verified by affidavit, with any court
8 within whose jurisdiction the premises to be searched are
9 situated, stating the facts upon which such belief is founded,
10 the premises to be searched, and the property to be seized, and
11 procure a search warrant and execute the same. Upon the
12 execution of such search warrant, the peace officer, or officer
13 or employee of the Department, executing such search warrant
14 shall make due return thereof to the court issuing the same,
15 together with an inventory of the property taken thereunder.
16 The court shall thereupon issue process against the owner of
17 such property if he is known; otherwise, such process shall be
18 issued against the person in whose possession the property so
19 taken is found, if such person is known. In case of inability
20 to serve such process upon the owner or the person in
21 possession of the property at the time of its seizure, as
22 hereinbefore provided, notice of the proceedings before the
23 court shall be given as required by the statutes of the State
24 governing cases of Attachment. Upon the return of the process
25 duly served or upon the posting or publishing of notice made,
26 as hereinabove provided, the court or jury, if a jury shall be

1 demanded, shall proceed to determine whether or not such
2 property so seized was held or possessed in violation of this
3 Act, or whether, if a vending device has been so seized, it
4 contained at the time of its seizure original packages not tax
5 stamped or tax imprinted underneath the sealed transparent
6 wrapper of such original packages as required by this Act. In
7 case of a finding that the original packages seized were not
8 tax stamped or tax imprinted underneath the sealed transparent
9 wrapper of such original packages in accordance with the
10 provisions of this Act, or that any vending device so seized
11 contained at the time of its seizure original packages not tax
12 stamped or tax imprinted underneath the sealed transparent
13 wrapper of such original packages in accordance with the
14 provisions of this Act, judgment shall be entered confiscating
15 and forfeiting the property to the State and ordering its
16 delivery to the Department, and in addition thereto, the court
17 shall have power to tax and assess the costs of the
18 proceedings.

19 When any original packages or any cigarette vending device
20 shall have been declared forfeited to the State by any court,
21 as hereinbefore provided, and when such confiscated and
22 forfeited property shall have been delivered to the Department,
23 as provided in this Act, the said Department shall destroy ~~sell~~
24 such property. The Department may, prior to any destruction of
25 cigarettes, permit the true holder of the trademark rights in
26 the cigarette brand to inspect such contraband cigarettes, in

1 order to assist the Department in any investigation regarding
2 such cigarettes. ~~for the best price obtainable and shall~~
3 ~~forthwith pay over the proceeds of such sale to the State~~
4 ~~Treasurer; provided, however, that if the value of such~~
5 ~~property to be sold at any one time shall be \$500 or more, such~~
6 ~~property shall be sold only to the highest and best bidder on~~
7 ~~such terms and conditions and on open competitive bidding after~~
8 ~~public advertisement, in such manner and for such terms as the~~
9 ~~Department, by rule, may prescribe.~~

10 ~~Upon making such a sale of original packages of cigarettes~~
11 ~~which were not tax stamped or tax imprinted underneath the~~
12 ~~sealed transparent wrapper of such original packages as~~
13 ~~required by this Act, the Department shall affix a distinctive~~
14 ~~stamp to each of the original packages so sold indicating that~~
15 ~~the same are sold pursuant to the provisions of this Section.~~

16 (Source: Laws 1965, p. 3707.)

17 (35 ILCS 130/21) (from Ch. 120, par. 453.21)

18 Sec. 21. Destruction or use of forfeited property.

19 (a) When any original packages of cigarettes or any
20 cigarette vending device shall have been declared forfeited to
21 the State by the Department, as provided in Section 18a of this
22 Act, and when all proceedings for the judicial review of the
23 Department's decision have terminated, the Department shall,
24 to the extent that its decision is sustained on review,
25 destroy, or maintain and use such property in an undercover

1 capacity, ~~or sell such property for the best price obtainable~~
2 ~~and shall forthwith pay over the proceeds of such sale to the~~
3 ~~State Treasurer. If the value of such property to be sold at~~
4 ~~any one time is \$500 or more, however, such property shall be~~
5 ~~sold only to the highest and best bidder on such terms and~~
6 ~~conditions and on open competitive bidding after public~~
7 ~~advertisement, in such manner and for such terms as the~~
8 ~~Department, by rule, may prescribe.~~

9 (b) The Department may, prior to any destruction of
10 cigarettes, permit the true holder of the trademark rights in
11 the cigarette brand to inspect such contraband cigarettes in
12 order to assist the Department in any investigation regarding
13 such cigarettes. If no complaint for review, as provided in
14 Section 8 of this Act, has been filed within the time required
15 by the Administrative Review Law, and if no stay order has been
16 entered thereunder, the Department shall proceed to sell the
17 property for the best price obtainable and shall forthwith pay
18 over the proceeds of such sale to the State Treasurer. If the
19 value of such property to be sold at any one time is \$500 or
20 more, however, such property shall be sold only to the highest
21 and best bidder on such terms and conditions and on open
22 competitive bidding after public advertisement, in such manner
23 and for such terms as the Department, by rule, may prescribe.

24 (c) ~~Upon making a sale of unstamped original packages of~~
25 ~~cigarettes as provided in this Section, the Department shall~~
26 ~~affix a distinctive stamp to each of the original packages so~~

1 ~~sold indicating that the same are sold under this Section.~~

2 ~~(d) Notwithstanding the foregoing, any cigarettes seized~~
3 ~~under this Act or under the Cigarette Use Tax Act may, at the~~
4 ~~discretion of the Director of Revenue, be distributed to any~~
5 ~~eleemosynary institution within the State of Illinois.~~

6 (Source: P.A. 94-776, eff. 5-19-06.)

7 (35 ILCS 130/9c rep.)

8 (35 ILCS 130/28 rep.)

9 Section 10. The Cigarette Tax Act is amended by repealing
10 Sections 9c and 28.

11 Section 15. The Prevention of Cigarette Sales to Minors Act
12 is amended by changing Sections 5 and 10 and by adding Sections
13 2, 6, 7, 8, 9, 20, 25, and 30 as follows:

14 (720 ILCS 678/2 new)

15 Sec. 2. Definitions. For the purpose of this Act:

16 "Clear and conspicuous statement" means the statement is of
17 sufficient type size to be clearly readable by the recipient of
18 the communication.

19 "Consumer" means an individual who acquires or seeks to
20 acquire cigarettes for personal use.

21 "Delivery sale" means any sale of cigarettes to a consumer
22 if:

23 (a) the consumer submits the order for such sale by

1 means of a telephone or other method of voice transmission,
2 the mails, or the Internet or other online service, or the
3 seller is otherwise not in the physical presence of the
4 buyer when the request for purchase or order is made; or

5 (b) the cigarettes are delivered by use of a common
6 carrier, private delivery service, or the mails, or the
7 seller is not in the physical presence of the buyer when
8 the buyer obtains possession of the cigarettes.

9 "Delivery service" means any person (other than a person
10 that makes a delivery sale) who delivers to the consumer the
11 cigarettes sold in a delivery sale.

12 "Department" means the Department of Revenue.

13 "Government-issued identification" means a State driver's
14 license, State identification card, passport, a military
15 identification or an official naturalization or immigration
16 document, such as an alien registration recipient card
17 (commonly known as a "green card") or an immigrant visa.

18 "Legal minimum age" means the minimum age at which an
19 individual may legally purchase cigarettes within this State,
20 as determined by either State or local government.

21 "Mails" or "mailing" mean the shipment of cigarettes
22 through the United States Postal Service.

23 "Out-of-state sale" means a sale of cigarettes to a
24 consumer located outside of this State where the consumer
25 submits the order for such sale by means of a telephonic or
26 other method of voice transmission, the mails or any other

1 delivery service, facsimile transmission, or the Internet or
2 other online service and where the cigarettes are delivered by
3 use of the mails or other delivery service.

4 "Person" means any individual, corporation, partnership,
5 limited liability company, association, or other organization
6 that engages in any for profit or not-for-profit activities.

7 "Shipping package" means a container in which packs or
8 cartons of cigarettes are shipped in connection with a delivery
9 sale.

10 "Shipping documents" means bills of lading, air bills, or
11 any other documents used to evidence the undertaking by a
12 delivery service to deliver letters, packages, or other
13 containers.

14 "Within this State" means within the exterior limits of the
15 State of Illinois and includes all territory within these
16 limits owned by or ceded to the United States of America.

17 (720 ILCS 678/5)

18 Sec. 5. Unlawful shipment or transportation of cigarettes.

19 (a) It is unlawful for any person engaged in the business
20 of selling cigarettes to ship or cause to be shipped any
21 cigarettes unless the person shipping the cigarettes:

22 (1) is licensed as a distributor under either the
23 Cigarette Tax Act, or the Cigarette Use Tax Act; or
24 delivers the cigarettes to a distributor licensed under
25 either the Cigarette Tax Act or the Cigarette Use Tax Act;

1 or

2 (2) ships them to an export warehouse proprietor
3 pursuant to Chapter 52 of the Internal Revenue Code, or an
4 operator of a customs bonded warehouse pursuant to Section
5 1311 or 1555 of Title 19 of the United States Code.

6 For purposes of this subsection (a), a person is a licensed
7 distributor if the person's name appears on a list of licensed
8 distributors published by the Illinois Department of Revenue.
9 The term cigarette has the same meaning as defined in Section 1
10 of the Cigarette Tax Act and Section 1 of the Cigarette Use Tax
11 Act. Nothing in this Act prohibits a person licensed as a
12 distributor under the Cigarette Tax Act or the Cigarette Use
13 Tax Act from shipping or causing to be shipped any cigarettes
14 to a registered retailer under the Retailers' Occupation Tax
15 Act and the Cigarette Tax Act provided the cigarette tax or
16 cigarette use tax has been paid.

17 (b) A common or contract carrier may transport cigarettes
18 to any individual person in this State only if the carrier
19 reasonably believes such cigarettes have been received from a
20 person described in paragraph (a)(1). Common or contract
21 carriers may make deliveries of cigarettes to licensed
22 distributors described in paragraph (a)(1) of this Section.
23 Nothing in this subsection (b) shall be construed to prohibit a
24 person other than a common or contract carrier from
25 transporting not more than 1,000 cigarettes at any one time to
26 any person in this State.

1 (c) A common or contract carrier may not complete the
2 delivery of any cigarettes to persons other than those
3 described in paragraph (a)(1) of this Section without first
4 obtaining from the purchaser an official written
5 identification from any state or federal agency that displays
6 the person's date of birth or a birth certificate that includes
7 a reliable confirmation that the purchaser is at least 18 years
8 of age; that the cigarettes purchased are not intended for
9 consumption by an individual who is younger than 18 years of
10 age; and a written statement signed by the purchaser that
11 certifies the purchaser's address and that the purchaser is at
12 least 18 years of age. The statement shall also confirm: (1)
13 that the purchaser understands that signing another person's
14 name to the certification is illegal; (2) that the sale of
15 cigarettes to individuals under 18 years of age is illegal; and
16 (3) that the purchase of cigarettes by individuals under 18
17 years of age is illegal under the laws of Illinois.

18 (d) When a person engaged in the business of selling
19 cigarettes ships or causes to be shipped any cigarettes to any
20 person in this State, other than in the cigarette
21 manufacturer's or tobacco products manufacturer's original
22 container or wrapping, the container or wrapping must be
23 plainly and visibly marked with the word "cigarettes".

24 (e) When a peace officer of this State or any duly
25 authorized officer or employee of the Illinois Department of
26 Public Health or Department of Revenue discovers any cigarettes

1 which have been or which are being shipped or transported in
2 violation of this Section, he or she shall seize and take
3 possession of the cigarettes, and the cigarettes shall be
4 subject to a forfeiture action pursuant to the procedures
5 provided under the Cigarette Tax Act or Cigarette Use Tax Act.

6 (Source: P.A. 93-960, eff. 8-20-04.)

7 (720 ILCS 678/6 new)

8 Sec. 6. Prevention of delivery sales to minors.

9 (a) No person shall make a delivery sale of cigarettes to
10 any individual who is under the legal minimum age.

11 (b) Each person accepting a purchase order for a delivery
12 sale shall comply with the provisions of this Act and all other
13 laws of this State generally applicable to sales of cigarettes
14 that occur entirely within this State, including, but not
15 limited to, those laws imposing: (i) excise taxes; (ii) sales
16 taxes; (iii) license and revenue-stamping requirements; and
17 (iv) escrow payment obligations.

18 (720 ILCS 678/7 new)

19 Sec. 7. Age verification and shipping requirements to
20 prevent delivery sales to minors.

21 (a) No person, other than a delivery service, shall mail,
22 ship, or otherwise cause to be delivered a shipping package in
23 connection with a delivery sale unless the person:

24 (1) prior to the first delivery sale to the prospective

1 consumer, obtains from the prospective consumer a written
2 certification which includes a statement signed by the
3 prospective consumer that certifies:

4 (A) the prospective consumer's current address;

5 and

6 (B) that the prospective consumer is at least the
7 legal minimum age;

8 (2) informs, in writing, such prospective consumer
9 that:

10 (A) the signing of another person's name to the
11 certification described in this Section is illegal;

12 (B) sales of cigarettes to individuals under the
13 legal minimum age are illegal;

14 (C) the purchase of cigarettes by individuals
15 under the legal minimum age is illegal; and

16 (D) the name and identity of the prospective
17 consumer may be reported to the state of the consumer's
18 current address under the Act of October 19, 1949 (15
19 U.S.C. § 375, et seq.), commonly known as the Jenkins
20 Act;

21 (3) makes a good faith effort to verify the date of
22 birth of the prospective customer provided pursuant to this
23 Section by:

24 (A) comparing the date of birth against a
25 commercially available database or

26 (B) obtaining a photocopy or other image of a

1 valid, government-issued identification stating the
2 date of birth or age of the prospective consumer;

3 (4) provides to the prospective consumer a notice that
4 meets the requirements of subsection (b);

5 (5) receives payment for the delivery sale from the
6 prospective consumer by a credit or debit card that has
7 been issued in such consumer's name, or by a check or other
8 written instrument in such consumer's name; and

9 (6) ensures that the shipping package is delivered to
10 the same address as is shown on the government-issued
11 identification or contained in the commercially available
12 database.

13 (b) The notice required under this Section shall include:

14 (1) a statement that cigarette sales to consumers below
15 the legal minimum age are illegal;

16 (2) a statement that sales of cigarettes are restricted
17 to those consumers who provide verifiable proof of age in
18 accordance with subsection (a);

19 (3) a statement that cigarette sales are subject to tax
20 under Section 2 of the Cigarette Tax Act (35 ILCS 130/2)
21 and an explanation of how such tax has been, or is to be,
22 paid with respect to such delivery sale.

23 (c) A statement meets the requirement of this Section if:

24 (1) the statement is clear and conspicuous;

25 (2) the statement is contained in a printed box set
26 apart from the other contents of the communication;

1 (3) the statement is printed in bold, capital letters;

2 (4) the statement is printed with a degree of color

3 contrast between the background and the printed statement

4 that is no less than the color contrast between the

5 background and the largest text used in the communication;

6 and

7 (5) for any printed material delivered by electronic

8 means, the statement appears at both the top and the bottom

9 of the electronic mail message or both the top and the

10 bottom of the Internet website homepage.

11 (d) Each person, other than a delivery service, who mails,

12 ships, or otherwise causes to be delivered a shipping package

13 in connection with a delivery sale shall:

14 (1) include as part of the shipping documents a clear

15 and conspicuous statement stating: "Cigarettes: Illinois

16 Law Prohibits Shipping to Individuals Under 18 and Requires

17 the Payment of All Applicable Taxes";

18 (2) use a method of mailing, shipping, or delivery that

19 requires a signature before the shipping package is

20 released to the consumer; and

21 (3) ensure that the shipping package is not delivered

22 to any post office box.

23 (720 ILCS 678/8 new)

24 Sec. 8. Registration and reporting requirements to prevent

25 delivery sales to minors.

1 (a) Each person who makes a delivery sale of cigarettes to
2 a consumer located within this State shall file with the
3 Department for each individual sale:

4 (1) a statement setting forth such person's name, trade
5 name, and the address of such person's principal place of
6 business and any other place of business; and

7 (2) not later than the tenth day of each calendar
8 month, a memorandum or copy of the invoice for each and
9 every such delivery sale made during the previous calendar
10 month, which includes the following information:

11 (A) the name and address of the consumer to whom
12 such delivery sale was made;

13 (B) the brand style or brand styles of the
14 cigarettes that were sold in such delivery sale;

15 (C) the quantity of cigarettes that were sold in
16 such delivery sale; and

17 (D) an indication of whether or not the cigarettes
18 sold in the delivery sale bore a tax stamp evidencing
19 payment of the tax under Section 2 of the Cigarette Tax
20 Act (35 ILCS 130/2).

21 (b) Each person engaged in business within this State who
22 makes an out-of-state sale shall, for each individual sale,
23 submit to the appropriate tax official of the state in which
24 the consumer is located the information required in subsection
25 (a).

26 (c) Any person that satisfies the requirements of 15 U.S.C.

1 Section 376 shall be deemed to satisfy the requirements of
2 subsections (a) and (b).

3 (d) The Department is authorized to disclose to the
4 Attorney General any information received under this title and
5 requested by the Attorney General. The Department and the
6 Attorney General shall share with each other the information
7 received under this title and may share the information with
8 other federal, State, or local agencies for purposes of
9 enforcement of this title or the laws of the Federal government
10 or of other States.

11 (e) This Section shall not be construed to impose liability
12 upon any delivery service, or officers or employees thereof,
13 when acting within the scope of business of the delivery
14 service.

15 (720 ILCS 678/9 new)

16 Sec. 9. Statements for delivery sales.

17 (a) Each person who makes a delivery sale shall collect and
18 remit to the Department all excise taxes imposed by this State
19 with respect to such delivery sale and maintain evidence of
20 such payment unless the person is located outside the State and
21 includes a statement on the outside of the shipping package
22 stating: "Illinois law requires the payment of state taxes on
23 this shipment of cigarettes. You are legally responsible for
24 all applicable unpaid state taxes on these cigarettes."

25 (b) A statement meets the requirements of subsection (a) if

1 the statement is:

2 (1) clear and conspicuous;

3 (2) contained in a printed box set apart from the
4 shipping label and other markings contained on the shipping
5 package;

6 (3) printed in bold, capital letters;

7 (4) printed with a degree of color contrast between the
8 background and the printed statement that is no less than
9 the color contrast between the background and the largest
10 text used on the shipping label; and

11 (5) located on the same side of the shipping package as
12 the shipping label.

13 (720 ILCS 678/10)

14 Sec. 10. Violation.

15 (a) A person who violates subsection (a), (b), or (c) of
16 Section 5 or Section, 6, 7, 8, or 9 is guilty of a Class A
17 misdemeanor. A second or subsequent violation of subsection
18 (a), (b), or (c) of Section 5 or Section, 6, 7, 8, or 9 is a
19 Class 4 felony.

20 (b) The Department of Revenue shall impose a civil penalty
21 not to exceed \$5,000 on any person who violates subsection (a),
22 (b), or (c) of Section 5 or Sections 6, 7, 8, or 9. The
23 Department of Revenue shall impose a civil penalty not to
24 exceed \$5,000 on any person engaged in the business of selling
25 cigarettes who ships or causes to be shipped any such

1 cigarettes to any person in this State in violation of
2 subsection (d) of Section 5.

3 (c) All cigarettes sold or attempted to be sold in a
4 delivery sale that does not meet the requirements of this Act
5 shall be forfeited to the State. All cigarettes forfeited to
6 this State under this Act shall be destroyed. The Department
7 may, prior to any destruction of cigarettes, permit the true
8 holder of the trademark rights in the cigarette brand to
9 inspect such contraband cigarettes, in order to assist the
10 Department in any investigation regarding such cigarettes.

11 (d) ~~(e)~~ Any person aggrieved by any decision of the
12 Department of Revenue may, within 60 days after notice of that
13 decision, protest in writing and request a hearing. The
14 Department of Revenue shall give notice to the person of the
15 time and place for the hearing and shall hold a hearing before
16 it issues a final administrative decision. Absent a written
17 protest within 60 days, the Department's decision shall become
18 final without any further determination made or notice given.

19 (Source: P.A. 93-960, eff. 8-20-04.)

20 (720 ILCS 678/20 new)

21 Sec. 20. Tip line.

22 (a) Not later than 120 days after the effective date of
23 this amendatory Act of the 95th General Assembly, the
24 Department shall establish, publicize, and maintain a
25 toll-free telephone number to receive information related to

1 violations of this Act.

2 (b) The Attorney General may pay a reward of up to \$5,000
3 to any person who furnishes information leading to the
4 Department's collection of excise taxes imposed upon delivery
5 sales which otherwise would not have been collected but for the
6 information provided by the person.

7 (720 ILCS 678/25 new)

8 Sec. 25. Construction. The requirements imposed by this Act
9 shall not apply where such application would be contrary to the
10 Constitution and laws of the United States.

11 (720 ILCS 678/30 new)

12 Sec. 30. Severability. If any provision of this Act is for
13 any reason held to be unconstitutional or invalid, such holding
14 shall not affect the constitutionality or validity of the
15 remaining provisions of this Act, and to this end the
16 provisions of this Act are expressly declared to be severable.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.

1	INDEX	
2	Statutes amended in order of appearance	
3	35 ILCS 130/1	from Ch. 120, par. 453.1
4	35 ILCS 130/3	from Ch. 120, par. 453.3
5	35 ILCS 130/3-10	
6	35 ILCS 130/3-15 new	
7	35 ILCS 130/3-20 new	
8	35 ILCS 130/4	from Ch. 120, par. 453.4
9	35 ILCS 130/4c new	
10	35 ILCS 130/4d new	
11	35 ILCS 130/4e new	
12	35 ILCS 130/4f new	
13	35 ILCS 130/4g new	
14	35 ILCS 130/5	from Ch. 120, par. 453.5
15	35 ILCS 130/6a new	
16	35 ILCS 130/11	from Ch. 120, par. 453.11
17	35 ILCS 130/11a new	
18	35 ILCS 130/20	from Ch. 120, par. 453.20
19	35 ILCS 130/21	from Ch. 120, par. 453.21
20	35 ILCS 130/9c rep.	
21	35 ILCS 130/28 rep.	
22	720 ILCS 678/2 new	
23	720 ILCS 678/5	
24	720 ILCS 678/6 new	
25	720 ILCS 678/7 new	

- 1 720 ILCS 678/8 new
- 2 720 ILCS 678/9 new
- 3 720 ILCS 678/10
- 4 720 ILCS 678/20 new
- 5 720 ILCS 678/25 new
- 6 720 ILCS 678/30 new